

## DETAILED ACTION

### *Claim Rejections - 35 USC § 112*

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. **Claims 3-8, 10, 11, 13, and 14 are rejected to under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.** All dependant claims refer to claim 1, thus, while the Examiner can usually glean the intended meaning of said dependant claims, the Examiner would like to remove potential confusion in the matter.

Claim 3 recites the limitation "at least two of said movable containers" in line 1 of the claim. There is insufficient antecedent basis for this limitation in the claim.

Claim 4 recites the limitation "said at least two containers" in line 2 of the claim. There is insufficient antecedent basis for this limitation in the claim.

Claim 5 recites the limitations "said at least two containers" and "said frame" in lines 2 and 3 of the claim, respectively. There is insufficient antecedent basis for this limitation in the claim.

Claim 6 recites the limitation "said frame" in line 2 of the claim. There is insufficient antecedent basis for this limitation in the claim.

Claim 7 recites the limitations "second handling means," "said containers," and "said frame" in lines 2, 2, and 3 of the claim, respectively. There is insufficient antecedent basis for this limitation in the claim.

Art Unit: 4136

Claim 8 recites the limitations "said second handling means," "said two containers," and "said one or more positions to release stacks" in lines 2, 3, and 4 of the claim, respectively. There is insufficient antecedent basis for this limitation in the claim.

Claim 10 recites the limitations "said bottom elements," "said frame," and "said accumulation position" in lines 2, 2, and 4 of the claim, respectively. There is insufficient antecedent basis for this limitation in the claim.

Claim 13 recites the limitation "said containers" and "the mould" in lines 2 and 2 of the claim, respectively. There is insufficient antecedent basis for this limitation in the claim.

Claim 14 recites the limitations "said handling means" and "said thermoforming station" in lines 2 and 3 of the claim, respectively. There is insufficient antecedent basis for this limitation in the claim.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**Claims 1-5, 7-9, 11 and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Spatafora et al. (U.S. Patent No. 6,484,867).** Spatafora et al. provides a [claim 1] "machine for the orderly positioning and transfer of stackable articles, wherein stacks formed of a pre-established number of said articles are prepared, and from which

Art Unit: 4136

said stacks are deposited on transport means, the machine including at least one station to receive said articles and at least one station to form stacks, characterized in that said station to form stacks includes at least one container equipped with a plurality of essentially vertical compartments designed to receive said articles and promote their stacking through gravity,” wherein said station to receive articles could be item 3 in Fig. 1 and the station to form stacks could be item 8 in Fig. 1, item 8 also including essentially vertical compartments.

Spatafora et al. also discloses [**claim 2**] at least one movable container, item 25 in Fig. 1, movable between positions to accumulate and release stacks.

Spatafora et al. further discloses [**claim 3**] two, or more, of said movable containers capable of the claimed positions, as illustrated in Fig. 1, item 25.

Spatafora et al. also discloses [**claim 4**] two or more containers mounted on a rotatable frame, items 24 and 25 in Fig. 1. A handling means is disclosed by Spatafora et al. in claim 2 as "a pneumatic circuit."

Spatafora et al. further discloses [**claim 5**] at least two containers being mounted diametrically on said frame, one of many configuration options available, outlined in Fig. 1 and claims 1 and 8.

Spatafora et al discloses [**claim 7**] a second handling means for translating said containers in claims 1 and 8.

Spatafora et al also discloses [**claim 8**] a single motor with means to control container translation in claim 1: at least one motor is implied in the pocket conveyer, as a means moving means.

Art Unit: 4136

Spatafora et al further discloses **[claim 9]** bottom elements under said containers to bear said stacks, as shown by both items 9 and 27 in Fig. 1.

Spatafora et al discloses **[claim 11]** movable means for obstructing or allowing access of said articles to said containers, Illustrated by apparatus 32 in Fig. 1 consisting of items 33-38.

Spatafora et al lastly discloses **[claim 14]** at least one control unit, an apparatus that would be recognizably as obviously necessary and required to one ordinarily skilled in the art given the context of the operating system in claim 12 and conveyor system in claim 1.

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. **Claims 6, 12 and 13 are rejected under 35 U.S.C. 103(a) as being**

**unpatentable over Spatafora et al in view of Trautwein et al.** Spatafora et al.

discloses the stacking machine as set forth above, but does not disclose wherein said articles are produced in a thermoforming station positioned upstream of the machine.

Trautwein et al discloses a stacking machine for articles produced upstream of said machine in **[claim 12]** a thermoforming station (Fig. 1 and claim 1). At the time of the invention, it would have been obvious to a person of ordinary skill in the art to provide a

Art Unit: 4136

thermoforming station in a production line Spatafora et al in light of Trautwein et al, in order to provide staking means for numerous types of articles, including plastics.

Regarding claim 13, the combination of Trautwein et al and Spatafora et al, discloses [**claim 13**] the compartments of said containers to have the same number of, and layout as, the cavities in the mould in which said articles are formed (Trautwein Figs. 1 and 2, items 8-10, 2, and 12).

Regarding claim 6, the combination of Trautwein et al and Spatafora et al, discloses [**claim 6**] "wherein the axis of rotation of said frame is inclined with respect to the supporting surface of the machine," (Trautwein Figs. 1 and 4, item 6 and axis X).

6. **Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Spatafora et al in view of Examiner's Official Notice.** Spatafora et al. discloses the stacking machine as set forth above, but does not disclose means to provide vibrations. It is notoriously old and well known to provide vibration means to assist channeling articles into the vertical compartments. At the time of the invention, it would have been obvious to a person of ordinary skill in this art to provide vibration means to Spatafora et al. in view of Examiner's Official Notice, so that the articles could be more efficiently channeled into the vertical compartments.

### *Conclusion*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John-Paul N. Mitchell whose telephone number is 571.270.5226. The examiner can normally be reached on 5/4/9.

Art Unit: 4136

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allen Shriver can be reached on 571.272.6698. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

J-PNM

/J. Allen Shriver/  
Supervisory Patent Examiner, Art Unit 4136